

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Petition of the California Public Utilities	)	
Commission for Delegated Authority to	)	CC Docket No. 99-200
Implement Specialized Transitional Overlays	)	
	)	

**ORDER**

**Adopted: August 24, 2005****Released: September 9, 2005**

By the Chief, Wireline Competition Bureau:

**I. INTRODUCTION**

1. In this Order, we grant, in part, the California Public Utility Commission's (California Commission) petition to implement two specialized overlays (SOs)<sup>1</sup> in the state of California.<sup>2</sup> Specifically, we delegate authority to the California Commission to implement one SO in Northern California and one in Southern California as proposed in the Petition. We also grant the California Commission the flexibility to determine which non-geographic and transparent services will be included in the SOs, but it must notify the Wireline Competition Bureau (Bureau) of the specific services to be included in the SOs prior to implementing them.<sup>3</sup> We, however, decline to grant the California Commission authority to take back numbers as part of the SOs. We also decline to grant the California Commission's request to permanently maintain seven-digit dialing. We, however, grant the California Commission a one-year waiver of the ten-digit-dialing requirement. We emphasize that our action in this Order is intended to assist the California Commission as it implements area code relief in California, and should not be used to justify delaying this relief where and when needed.

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<sup>1</sup> Service-specific and technology specific overlays are collectively referred to as specialized overlays (SOs). In a service-specific overlay, numbering resources are assigned to carriers that provide a particular type of service or services, such as unified messaging and/or vehicle response services. In contrast, numbering resources in a technology-specific overlay are assigned to carriers that use a particular type of technology or technologies, such as wireless. See *Numbering Resource Optimization*, Third Report and Order and Second Order on Reconsideration, CC Docket No. 96-98 and CC Docket No. 99-200, 17 FCC Rcd 252, 282 n.173 (2001) (*Numbering Resource Optimization Third Report and Order*).

<sup>2</sup> See Petition of The California Public Utilities Commission and the People of the State of California for Authority to Implement Specialized Overlay Area Codes, filed October 6, 2003 (Petition). The California Commission previously filed a petition for authority to implement a technology-specific overlay on September 27, 2002. See Petition of The California Public Utilities Commission and the People of the State of California for Authority to Implement Technology-Specific Overlay Area Codes and Request Expedited Treatment, filed September 27, 2002. This petition was subsequently withdrawn. See Motion By The California Public Utilities Commission and the People of the State of California to Withdraw Petition for Authority to Implement Technology-Specific Overlay Area Codes, filed March 14, 2003.

<sup>3</sup> The California Commission must notify the Bureau of whether it implements the SOs granted in this Order.

## II. BACKGROUND

### A. Commission Authority

2. Section 251(e) of the Communications Act of 1934, as amended (Act), gives the Commission plenary jurisdiction over the North American Numbering Plan (NANP) and related telephone numbering issues in the United States.<sup>4</sup> In the *Numbering Resource Optimization Third Report and Order*, the Commission lifted its prior ban on SOs due to, among other things, the urgency presented by the increasing demand for the finite supply of telephone numbers.<sup>5</sup> In that order, the Commission stated that it would consider requests for authority to implement SOs on a case-by-case basis to minimize any adverse impact on customers and service providers. The Commission directed state commissions seeking authority to implement SOs to demonstrate why implementation of an SO would be superior to the implementation of an all-services overlay. The Commission also set forth eight criteria for state commissions to address in SO petitions. Specifically, state petitions for SOs must: (1) detail the technologies or services to be included in the SO; (2) detail the geographic area to be covered; (3) describe whether the SO will be transitional; (4) detail when the SO will be implemented, and, if a transitional SO is proposed, when the SO will become an all-services overlay; (5) discuss whether the SO will include taking back telephone numbers from carriers and their customers in the existing area code; (6) state whether there will be ten-digit dialing<sup>6</sup> in the SO and the underlying area code(s); (7) state whether the SO and the underlying area code(s) will be subject to rationing; and (8) state whether the SO will cover an area in which thousands-block number pooling (pooling) takes place.<sup>7</sup>

3. With regard to these criteria, the Commission has expressed a preference for SOs where the numbering resource optimization benefits of the proposed SO would be superior to implementing an all-services overlay.<sup>8</sup> The Commission also prefers SOs that: include non geographic-based services, cover multiple area codes, transition into all-services overlays, do not require take-backs,<sup>9</sup> require ten-digit dialing, will not require rationing, and require pooling.<sup>10</sup>

### B. The Petition

4. On October 6, 2003, the California Commission filed a petition requesting delegated authority to implement two SOs covering the entire state of California.<sup>11</sup> The petition requests authority to implement one SO over the Northern portion of the state and one SO over the Southern portion of the

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<sup>4</sup> 47 U.S.C. § 251(e).

<sup>5</sup> See *Numbering Resource Optimization Third Report and Order*, 17 FCC Rcd at 285.

<sup>6</sup> Ten-digit dialing requires a caller to dial the area code followed by the seven-digit phone number for calls within the same NPA. The ten-digit dialing rule states that no area code overlay may be implemented unless there is mandatory ten-digit dialing for all calls in the geographic area covered by the overlay. See 47 C.F.R. § 52.19(c)(3)(ii).

<sup>7</sup> See *Numbering Resource Optimization Third Report and Order*, 17 FCC Rcd at 288.

<sup>8</sup> *Id.*

<sup>9</sup> Take-backs occur when carriers surrender their numbers in the underlying area code and obtain numbers from the new area code. See *id.* at 287.

<sup>10</sup> *Id.* at 288-94.

<sup>11</sup> See Petition at 4. See also *Wireline Competition Bureau Seeks Comment on the Petition of the California Public Utilities Commission and of the People of the State of California for Authority to Implement Specialized Overlay Area Codes*, Public Notice, CC Docket No. 99-200, 18 FCC Rcd 21331 (Wireline Comp. Bur. 2003). Comments were due on November 17, 2003 and reply comments were due on December 2, 2003.

state.<sup>12</sup> The California Commission seeks to place all “transparent” or “non-geographic based” numbers in the SOs.<sup>13</sup> Specifically, the telephone numbers proposed to be assigned in the SOs include those numbers used for services and technologies such as automated vehicle response systems, unified messaging services, automated teller machines (ATMs), point-of-sales machines, numbers assigned to modems or fax machines, paging services, Voice over Internet Protocol (VoIP) services, and dial up-numbers of Internet service providers (ISPs).<sup>14</sup>

### III. DISCUSSION

5. We find that the California Commission’s Petition satisfies the criteria established in the *Numbering Resource Optimization Third Report and Order*.<sup>15</sup> Specifically, the record demonstrates that the proposed SOs will include non-geographic based services, will cover multiple area codes, will not require rationing and will require pooling consistent with the preferences articulated by the Commission.<sup>16</sup> With regard to the services to be included in the SOs, the California Commission recognizes that a number of technical issues must be resolved before implementing the SOs.<sup>17</sup> The California Commission reports that it has presented its SO proposal to various industry members in California and has expressed its intent to work with industry members to resolve outstanding implementation issues.<sup>18</sup> The California Commission’s assertion with regard to the remaining criteria: transitioning to an all-services overlay, take-backs, and ten-digit dialing are contrary to the Commission’s preferences. Accordingly, as described below, we limit the relief granted because of these concerns.

6. We believe that this grant will allow the California Commission to meet its state’s numbering needs, while at the same time furthering our numbering resource optimization goals. Because state commissions are best suited to understand local conditions and what effect new area codes will have on those conditions, we give the California Commission the flexibility to implement area code relief as described herein. We trust that the California Commission will continue its partnership with the Commission and work to meet our numbering resource optimization goals.

7. The California Commission proposes to include all “non-geographic based” or “transparent” numbers, except for cellular services that would otherwise be assigned the underlying numbering plan areas (NPA), commonly known as the area codes, in the SOs. We grant the California Commission’s request and delegate authority to the California Commission to determine which “non-geographic” and “transparent” services will be included in the SOs. Although we leave it to the California Commission’s discretion to determine which services should be included in the SO and do not condition this delegation on the types of services that are included, we expect the California Commission to notify the Bureau of the specific services it will include in the SOs.

8. We limit the relief granted to the California Commission in two respects. First, we decline to grant the California Commission authority to take back numbers as part of the SOs. We agree with

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<sup>12</sup> The California Commission states that one SO would cover the 530, 707, 415, 510, 925, 650, 408, 831, 209 and 916 area codes. The second SO would cover the 760, 559, 661, 805, 619, 858, 818, 214, 310, 323, 562, 626, 717, 949 and 909 area codes. *See* Petition at 4.

<sup>13</sup> Petition at 2.

<sup>14</sup> *Id.* at 2-3.

<sup>15</sup> *Numbering Resource Optimization Third Report and Order*, 17 FCC Rcd at 288.

<sup>16</sup> Petition at 2-10.

<sup>17</sup> *Id.* at 3-4.

<sup>18</sup> *Id.* at 4.

commenters and find that the California Commission has not justified the potential costs and discriminatory impact of take-backs.<sup>19</sup> Indeed, the California Commission itself recognizes that there are a number of technical challenges and costs associated with take-backs and states that it is not sure whether it would take back numbers.<sup>20</sup> Based on these uncertainties, we find no compelling reason to allow take-backs at this time.

9. Second, we decline to grant the California Commission's request to permanently maintain seven-digit dialing.<sup>21</sup> Instead, we grant the California Commission a one-year waiver of the ten-digit-dialing requirement.<sup>22</sup> The Commission's stated preference for ten-digit dialing is based on its ability to maximize our numbering resource optimization goals.<sup>23</sup> Although we are sensitive to the California Commission's concerns that ten-digit dialing is not necessary in the SO,<sup>24</sup> we continue to believe that ten-digit dialing is appropriate to ensure greater numbering resource efficiency and less consumer confusion in an SO.<sup>25</sup> Nevertheless, in order to allow the California time to implement ten-digit dialing in the SO, we grant the California Commission a one year waiver of the ten-digit dialing rule. This waiver will allow consumer education to occur prior to the implementation of ten-digit dialing, help minimize consumer confusion, and facilitate a smooth transition from seven-digit to ten-digit dialing.

10. The Commission has previously stated that any SO that achieves the purposes for which it is implemented (increasing the availability of numbering resources for all carriers) should not be subject to rationing.<sup>26</sup> Because the proposed SO will allow reasonable access to numbers by all carriers and promote our numbering resource optimization efforts, we find that rationing is not necessary in the SOs or the underlying NPAs that are the subject of this petition. We also emphasize that our numbering rules continue to apply in the underlying NPAs as well as in the SOs (*e.g.* pooling, porting, sequential number assignments).

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<sup>19</sup> See Paging Carriers Comments at 8-9, California ISP Association, *et. al.* Reply Comments at 6-7; California Cable and Telecommunications Association Comments at 13-15; Nextel Comments at 8-9; SBC Comments at 8-9; SureWest Comments at 5-6; T-Mobile Reply Comments at 3; Verizon Comments at 3; Verizon Wireless Comments at 4-6; Vonage Comments at 11-3.

<sup>20</sup> Petition at 6; California Commission Reply Comments at 6-7.

<sup>21</sup> Petition at 6-9.

<sup>22</sup> The California Commission seeks authority to implement a permanent seven-digit dialing requirement in their proposed SOs. See Petition at 7.

<sup>23</sup> *Numbering Resource Optimization Third Report and Order*, 17 FCC Rcd at 292-93. See also AT&T Comments at 9-10; AT&T Reply Comments at 6-7; Paging Carriers Comments at 9; California Cable & Telecommunications Association Comments at 15-19; Nextel Comments at 9-10; SBC Comments at 9-11; T-Mobile Reply Comments at 2-3; Verizon Comments at 3.

<sup>24</sup> Petition at 6-9.

<sup>25</sup> See *Numbering Resource Optimization Third Report and Order*, 17 FCC Rcd at 292; *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Second Report and Order and Memorandum Opinion and Order, CC Docket No 96-98, 11 FCC Rcd 19392, 19518-19, para. 287 (1996), *vacated in part*, *California v. FCC*, 124 F.3d 934 (8<sup>th</sup> Cir. 1997), *rev'd AT&T v. Iowa Utils. Bd.*, 525 U.S. 366 (1999).

<sup>26</sup> Rationing is a number conservation measure that limits the amount of numbering resources made available for allocation to carriers in a given area, in accordance with an industry-implemented or state-implemented rationing plan. See, *e.g.*, *Petition for Declaratory Ruling and Request for Expedited Action on July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717*, Memorandum Opinion and Order and Order on Reconsideration, 13 FCC Rcd 19009, 19025-27 (1998). See *Numbering Resource Optimization Third Report and Order*, 17 FCC Rcd at 294.

**IV. ORDERING CLAUSES**

11. Accordingly, IT IS ORDERED that pursuant to the authority contained in Sections 1, 3, 4, 201-205, 251 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 153, 154, 201-205, and 251, and sections 0.91, 0.291, and 52.19(c)(4) of the Commission's Rules, 47 C.F.R. §§ 0.91, 0.291, and 52.19(c)(4), this ORDER is hereby ADOPTED.

12. IT IS FURTHER ORDERED that pursuant to the authority contained in Sections 1, 3, 4, 201-205, 251 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 153, 154, 201-205, and 251, and sections 0.91, 0.291, and 52.19(c)(4) of the Commission's Rules, 47 C.F.R. §§ 0.91, 0.291, and 52.19(c)(4), the petition filed by the California Public Utility Commission, is GRANTED, IN PART, as discussed herein.

13. IT IS FURTHER ORDERED that pursuant to the authority contained in Sections 1.3 and 52.19(c) of the Commission's Rules, 47 C.F.R. §§ 1.3, 52.19(c), and the delegated authority in sections 0.91 and 0.291, of the Commission's Rules, 47 C.F.R. §§ 0.91, 0.291 that the California Public Utility Commission is GRANTED a Temporary Waiver of 47 C.F.R. Section 52.19(c)(3)(ii) for a period of one year from the date of implementation of the SO codes.

14. IT IS FURTHER ORDERED that this Order is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Thomas J. Navin  
Chief, Wireline Competition Bureau

## Appendix

### List of Parties

#### **Petition of the California Public Utilities Commission for Delegated Authority to Implement Specialized Transitional Overlays**

#### **Parties Filing Comments in Response to the California Commission's Petition**

1. AT&T
2. Allied National Paging Association, American Association of Paging Carriers, Arch Wireless Operating Co., Inc., Metrocall Holdings, Inc., and Weblink Wireless I, L.P. (Paging Carriers).
3. California Cable & Telecommunications Association
4. Calaeras Telephone Company, Cal-Ore Telephone Company, Ducor Telephone Company, Evans Telephone Company, Foresthill Telephone Company, Happy Valley Telephone Company, Hornitos, Telephone Company, Kerman Telephone Co., Pinnacles Telephone Co., The Ponderosa Telephone Co., Sierra Telephone Company, Inc., The Siskiyou Telephone Company, Volcano Telephone Company, Winterhaven Telephone Company (The California Small LECs).
5. Cellular Telecommunications & Internet Association (CTIA)
6. Citizens Telecommunications Company of California, Inc (DBA Frontier Communications Company of California), Citizens Telecommunications Company of the Golden State (DBA Frontier Communications Company of the Golden State), Citizens Telecommunications Company of Tuolumne (DBA Frontier Communications Company of Tuolmne), Frontier Communications Company of America, Inc., and Electric Lightwave, Inc. (The Frontier Companies).
7. j2 Global Communications, Inc. (j2).
8. MCI
9. Michigan Public Service Commission (Michigan PSC)
10. National Association of Regulatory Commissioners (NARUC) (filed November 24, 2003)
11. New York Department of Public Service (NYDPS)
12. Nextel Communications, Inc. (Nextel)
13. OnStar Corporation (OnStar)
14. SBC Communications, Inc. (SBC)
15. Sprint Corporation (Sprint)
16. SureWest Telephone (SureWest)
17. Verizon
18. Verizon Wireless
19. Vonage Holdings Corp. (Vonage)

**Parties Filing Reply Comments in Response to the California Commission's Petition**

1. AT&T
2. California ISP Association, ICG Telecom Group, Inc., Level 3 Communications, LLC, RCN Telecom Services, Inc. and Vonage Holdings Corp (California ISP Association, *et. al.*)
3. The California Small LECs.
4. SureWest
5. T-Mobile USA, Inc. (T-Mobile)